

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF STOREHOUSE) APPEAL NO. 06-A-2016
CHURCH OF BOISE from the decision of the Board of) FINAL DECISION
Equalization of Ada County for tax year 2006.) AND ORDER

RELIGIOUS EXEMPTION APPEAL

THIS MATTER came on for hearing September 13, 2006, in Boise, Idaho, before Board Member Lyle R. Cobbs. Board Member David E. Kinghorn participated in this decision. Appellant did not appear at the hearing. Deputy Prosecuting Attorney Ray Chako appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying an exemption claim for taxing purposes on property described as Parcel No. R1097510150.

The issue on appeal is whether the subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-602B, the religious exemption.

The decision of the Ada County Board of Equalization is affirmed.

FINDINGS OF FACT

The subject property assessed value in 2006 was \$195,000. Appellant is understood to seek a full exemption as would typically be afforded a church. The record on appeal contains only a small amount of information from Appellant. There is no sworn testimony or legal argument per se. The notice of appeal provides “We are a church . . . the property is owned 100% by church members . . . we are an association not a corporation”. (Emphasis in original.)

According to public records, the subject parcel is 0.6 acres and has an improvement of almost 3,000 square feet built in 1940. For several tax years prior to 2006, the subject property was fully exempted.

In its 2006 property tax exemption application, Appellant reported to the County that the subject property owner was “Storehouse Church of Boise and Jade [LLC], Tenants in Common”. See Respondent’s Exh. No. A, page 1. The County ultimately found that the property ownership

did not meet the religious exemption criteria and denied exempt status for 2006. A warranty deed submitted by the County, dated February 18, 2005 and recorded March 3, 2005, showed Storehouse Church of Boise conveyed subject to Jade Limited Liability Company and Storehouse Church of Boise. Each of the grantees is specified to have a one-half interest as tenants-in-common. Jade LLC is a private entity. See Respondent's Exh. Nos. C and D, documents from the Secretary of State's office.

The BOE minutes reveal how the 2005 change in ownership apparently came about, as well as suggesting for what reason(s) the change occurred. It appears Jade LLC bought out a mortgage on the subject property to financially help the church (or pastor and his wife.)

The County contends where the property is not completely owned by a religious organization a tax exemption is not warranted. Having determined the subject property fails on ownership, the County did not pursue a case related to the property use.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The exemption claim in this case is made under the following Idaho Code section.

§ 63-602B. Property exempt from taxation -- Religious corporations or societies.

The following property is exempt from taxation: *property belonging to any religious corporation or society of this state*, used exclusively for and in connection with public worship, and any parsonage belonging to such corporation or society and occupied as such, and any recreational hall belonging to and used in connection with the activities of such corporation or society; and *this exemption shall extend to property owned by any religious corporation or society* which is used for any combination of religious worship, educational purposes and recreational activities, not designed for profit. (*Emphasis added.*)

The exemption has two basic elements, ownership and use. An exemption grant is only

made where both elements are met within the language and spirit of the statute.

The determination in this case rests on the ownership issue. For a property to qualify it must be owned by a religious corporation or society. The subject property ownership is somewhat complicated and the record is not complete or always clear in that regard. However it is quite clear that on the 2006 lien date, the subject property ownership rested in at least two parties, one party being Jade LLC. Idaho Code § 63-205(1). The record does not suggest this later entity is a religious corporation or society. Every indication is that Jade LLC is a private entity, owned by individuals.

The Board holds the subject ownership is not demonstrated to be solely a religious corporation or society. A record owner of subject property is not a religious corporation or society. Idaho Code §§ 63-201(19), 63-307. The ownership test within Idaho Code § 63-602B is not met. Therefore the property does not qualify for exempt status. All property not expressly exempt is subject to assessment and property taxes. Idaho Code § 63-203. The decision of the Ada County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 1st day of March, 2007.